

Saenz v. Roe.²⁶ In its decision, the Court held that, even with congressional approval, California's attempt to impose on recently-arrived residents the welfare laws of their former states of residence was an unconstitutional penalty upon their right to interstate travel.²⁷ The decision also reaffirmed that the constitutional right to travel under the Privileges and Immunities Clause of Article IV, Sec. 2, provides a similar type of protection to a non-resident who enters a state with the intent eventually to return to her home state.²⁸ This principle applies to minors' rights to seek an abortion on non-discriminatory terms as well as to welfare benefits. In *Saenz*, the Court specifically referred to *Doe v. Bolton*,²⁹ which held that, under Article IV of the Constitution, a state may not restrict the ability of visiting non-residents to obtain abortions on the same terms and conditions under which they are made available by law to state residents: "[T]he Privileges and Immunities Clause, Const. Art. IV, Sec. 2, protects persons . . . who enter [a state] seeking the medical services that are available there."³⁰ It also is clear that such protections will flow to minors given that *Planned Parenthood v. Danforth*³¹ held that pregnant minors have a constitutional right to choose whether to terminate a pregnancy.

Finally, we would note that, in addition to these clear-cut constitutional problems, others have observed that the bill may well violate other constitutional requirements. For example, the ACLU, Professor Tribe and others have opined that the bill also contains an inadequate life exception and lacks any health exception, in possible abrogation of *Roe v. Wade* and its progeny.³²

extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limit of the State's power.")).

²⁶119 S. Ct. 1518, 1525-1527 (1999) (describing the various components of the right to travel and their constitutional derivations).

²⁷*See id.* at 1526-1527.

²⁸*See id.*

²⁹410 U.S. 179.

³⁰*Id.* at 200.

³¹428 U.S. 52, 74 (1976).

³²The ACLU points to *Planned Parenthood v. Casey*, 505 U.S. 833, 880 (1992) (holding that all abortion regulations must contain a valid medical emergency exception 'for the essential holding of *Roe* forbids a State from interfering with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health). H.R. 476 only provides an exception to its penalties when the abortion is 'necessary to save the life of a minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from pregnancy itself.' See also Letter from Laurence H. Tribe to Members of the Senate Judiciary Committee at 1 (June 23,